

IN THE UNITED STATES DISTRICT COURT OF PENNSYLVANIA  
EASTERN DISTRICT

CARLOS HARISTON,  
PETITIONER

:

NO.

:

V.

:

SCI FOREST SUPERINTENDENT;  
CHESTER COUNTY DISTRICT ATTORNEY;  
RESPONDENT(S)

MEMORANDUM OF LAW SUPPORTING  
§ 2254 PETITION OF HABEAS CORPUS

**Claim # 1 :** Plea court imposed a mandatory minimum for persons not to possess firearms in violation of *Alleyne v. United States*, 570 U.S. (2013). The charging Statute is § 6105, the sentencing statute used is subsection § 9712.1, which has been ruled unconstitutional pursuant to Supreme court ruling in *Apprendi* and *Alleyne*. Sixth Amendment guarantees that any element used to impose a mandatory minimum sentence must be charged in the information and proven to a jury beyond a reasonable doubt standard. See *United States v. Summer*, 2022 U.S. (D.D.C. 2022) which states that a binding plea agreement required summer to serve what would become an illegal sentence. The court said it didn't since it was the product of a threat of an unconstitutional punishment.

**Claim # 2 :** Plea counsel was ineffective for not asserting that Hariston persons not to possess firearms sentence was illegal. Which is violative of petitioner's Sixth Amendment and Fourteenth Amendment rights. Which calls for vacate and remand of the petitioner's sentence. See *Gideon v. Wainwright*, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963).

**Claim # 3 :** Hairston's plea was involuntary and unknowing because he did not receive pretrial notice of prosecution's intent to seek a mandatory sentence for his conviction of firearms possession. The petitioner was never given notice of the Commonwealth's intent to sentence him to a mandatory sentence after the decision in *Alleyne*, which is a Sixth Amendment Rule notice of the consequences the petitioner faces is Constitutionally mandated by Rule 590 Pa. R. Crim. P. 590, the An increase in sentence is not required to establish prejudice, as "any amount of actual jail time has Sixth Amendment Significance. See *Glover v. United States*, 531 U.S. 198, 203-04 (2001).

WHEREFORE, The petitioner ask this Honorable Court to grant the Writ of habeas corpus after consideration of the above argued case laws supporting petition.

Date:

**First class U.S. Mail:**

Chester County District Attorney (1 Copy)

Clerk of Courts United States District Court (1 Copy)

Respectfully Submitted,

*Carl H. Hester*



CHILDS THAKSTON # Q144751  
SCI Forest  
P.O. Box 945  
Marietta, PA 16239

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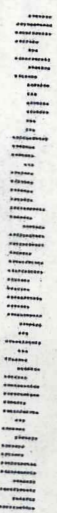
Smart Communications / PA DOC  
Inmate Name CHILDS THAKSTON DC # Q144751  
SCI Forest  
PO Box 33028  
St Petersburg, FL 33733



EASTERN DISTRICT OF PENNSYLVANIA  
Office of:  
U.S.M.S. Clerk UNITED STATES DISTRICT COURT  
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